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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|-----------------------|--------------------------------|
| In re Application of: | Eckhard Alt |
| Application No.: | 09/735401 |
| Filed: | December 12, 2000 |
| For: | Tubular Stent with Oval Struts |
| Examiner: | Michael Thaler |
| Group Art Unit: | 3731 |

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No.: S63.2N-11056-US03

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

The owner, Boston Scientific Scimed, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior patent No. 6,159,237. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it, and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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Check either box 1 or 2 below, if appropriate.

1. ☐ For submission on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf on the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

August 22, 2006
Date

Brendan Babcock
Signature

Brendan C. Babcock
Typed or printed name

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.
- ☒ PTO suggested wording for terminal disclaimer was
 - ☒ unchanged ☐ changed (if changed, an explanation should be supplied).

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DATE: August 22, 2006TIME: 2:55 P.M.FACSIMILE NO.: 571-273-8300TOTAL NUMBER OF PAGES (including transmittal letter): 3

FACSIMILE TRANSMITTAL LETTER

Following please find a(n) 2 page Terminal Disclaimer; and 1 page Facsimile Transmittal Letter.

With respect to fees:

- ☐ No additional fee is believed to be required
- ☒ Charge Deposit Account No. 22-0350 in the amount of \$130.00 (Terminal Disclaimer Fee)
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Conditional Petition

If any extension of time for the accompanying response is required or if a petition for any other matter is required, applicant requests that this be considered a petition therefore.

If any additional fees associated with this communication are required and have not otherwise been paid, please charge the additional fees to Deposit Account No. 22-0350. Please credit overpayment associated with this communication to the Deposit Account No. 22-0350.

Respectfully submitted,
VIDAS, ARRETT & STEINKRAUSDate: August 22, 2006By: Brendan C. BabcockBrendan C. Babcock
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Minnetonka, MN 55343-9185
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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 571-273-8300, on August 22, 2006.Signature: Heidi I. Stenter

Heidi I. Stenter